

REMARKS

Claims 25-46 are pending. Upon entry of this amendment, claims 25-38 and 41-46 are presented for examination. No new matter is introduced by this amendment.

Rejection of Claims 25-40 Under 35 U.S.C. § 112, Second Paragraph

Claims 25-40 are rejected under 35 U.S.C. § 112, second paragraph as indefinite for failure to particularly claim and point out the invention. The Examiner has pointed to a number of terms that allegedly render the claims indefinite.

Claims 25-26: the term "substantially equivalent"

The Examiner asserts that it is impossible to determine the equivalents of the biological activities in relation to what is being claimed. Applicants traverse the rejection and submit that one of skill in the art would readily understand the meaning of the term. However, purely to expedite the prosecution of the application, the claims have been amended to delete the term without prejudice to pursuing claims using the term "substantially equivalent" or similar terms in continuing or other related applications. Accordingly, Applicants respectfully submit the rejection is moot and should be reconsidered and withdrawn.

Claims 32-40 and 44-46

Claims 32-40 and 44-46 are alleged to be indefinite for being dependent on cancelled claim 1. Applicants respectfully traverse the rejection. The claims, as amended by Applicants supplemental amendment filed August 12, 2003, no longer depend on cancelled claim 1.

Accordingly, Applicants respectfully submit that the rejection is moot and should be reconsidered and withdrawn.

Claims 31 and 44: the term "base sequence"

The Examiner asserts that the term "base sequence" renders the claim indefinite because "[w]hile 'base sequence' refers to the order of nucleotide bases in a DNA molecule, the art uses 'nucleic acid sequence' to refer to the order of nucleotide bases in a DNA molecule." Applicant is uncertain of the basis for the rejection and believes that both terms are equivalent; however, purely to expedite the prosecution of the application, Applicants have deleted reference to "base sequence" in the claims. Accordingly, Applicants respectfully submit the rejection is moot and should be reconsidered and withdrawn.

Claim 39: the terms "induction of cartilage differentiation and induction of proliferation of a cell in which the polypeptide is expressed"

The Examiner asserts that claim 39 is indefinite in the use of these phrases alleging that the two biological activities are mutually exclusive in that they reach opposing endpoints. Applicants disagree with the Examiner's assertion that the two activities are necessarily mutually exclusive; however, Applicants have cancelled the claim without prejudice to pursuing it in a continuing or other related application. The claim is cancelled merely to expedite prosecution of the application. Accordingly, Applicants respectfully submit the rejection is moot and should be reconsidered and withdrawn.

Claim 39: the term "and"

The Examiner alleges that the use of the term "and" renders the claim indefinite and suggests applicant uses the term "or" instead. Applicants respectfully submit that the rejection is moot in view of the cancellation of the claims and respectfully requests that the rejection be reconsidered and withdrawn. Accordingly, Applicants respectfully submit the rejection is moot and should be reconsidered and withdrawn.

Rejection of Claims 25-40 and 42-46 Under 35 U.S.C. § 112, First Paragraph.

Rejection of Claims 25-40 and 42-46 under 35 U.S.C. § 112, first paragraph. The Examiner acknowledges that the specification is enabling for specifically recited sequences, their salts, amides, or esters, recombinant vectors comprising the sequences, methods for manufacturing the polypeptides defined by specifically recited sequences (including their salts, esters and amides) does not enable deletion, addition, insertion and substitution variants of the nucleic acids and polypeptides.

Applicants traverse the rejection for reasons made of record in their Amendment and Response filed June 20, 2003. However, solely to expedite the prosecution of the application, Applicants have amended the claims to recite specific SEQ ID NOs. without prejudice and without surrendering the right to pursue these in continuing or related applications.

The Claims are Free of the Prior Art

Applicants note with appreciation that the Examiner has acknowledged the claims to be free of the prior art. Applicants additionally thank the Examiner for helpful suggestions made in telephonic interviews in November, 2003. Applicants have amended the claims in a way which Applicants believe will be considered favorably by the Examiner and to facilitate allowance of the application.

CONCLUSION

Applicants submit that all claims are allowable as written and respectfully request early favorable action by the Examiner. If the Examiner believes that a telephone conversation with Applicants' attorney would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned attorney of record.

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Page 9 of 9

Respectfully submitted,

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